



**Service of Process
Transmittal**

09/23/2011

CT Log Number 519204090

TO: Charles Shewmake, Vice President/Legal
Burlington Northern Santa Fe LLC
2500 Lou Menk Drive
Fort Worth, TX 76131-

RE: Process Served in New Mexico

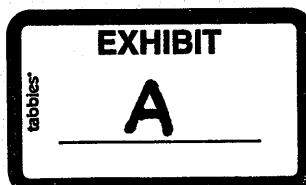
FOR: BNSF Railway Company (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Peggy Younger, Pltf. vs. BNSF Railway Company, Dft.
DOCUMENT(S) SERVED:	Summons, Complaint, Attachment(s)
COURT/AGENCY:	Thirteenth Judicial District Court, Valencia County, NM Case # D1314CV20111191
NATURE OF ACTION:	Personal Injury - Vehicle Collision - 3/9/2009
ON WHOM PROCESS WAS SERVED:	C T Corporation System, Santa Fe, NM
DATE AND HOUR OF SERVICE:	By Process Server on 09/23/2011 at 14:21
JURISDICTION SERVED :	New Mexico
APPEARANCE OR ANSWER DUE:	Within 30 days after service of the summons
ATTORNEY(S) / SENDER(S):	Richard R. Marquez 503 Slate Ave., NW Albuquerque, NM 87102 505-247-2972
ACTION ITEMS:	CT has retained the current log, Retain Date: 09/23/2011, Expected Purge Date: 09/28/2011 Image SOP Email Notification, Vickie Popejoy Vickie.Popejoy@bnsf.com Email Notification, Winona Garrett Winona.garrett@bnsf.com
SIGNED:	C T Corporation System
PER:	Amy McLaren
ADDRESS:	123 East Marcy Street Santa Fe, NM 87501
TELEPHONE:	800-592-9023

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THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF VALENCIA
STATE OF NEW MEXICO

NO. D-1314-CV-2011-1191

PEGGY YOUNGER,

Plaintiff,

vs.

BNSF RAILWAY COMPANY,

Defendant.

SUMMONS

TO: BNSF RAILWAY COMPANY

You are hereby directed to serve a pleading or motion in response to the Complaint within 30 days after service of the Summons, and file the same, all as provided by law.

You are notified that, unless you so serve and file a responsive pleading or motion, the Plaintiff(s) will apply to the Court for the relief demanded in the Complaint.

Attorney or Attorneys For Petitioner: Richard R. Marquez, Esq.
503 Slate Avenue, NW
Albuquerque, NM 87102
(505) 247-2972

WITNESS the Honorable WILLIAM A. SANCHEZ, District Judge of said Court of the State of New Mexico and the Seal of the District Court of said County this 21st day of September, 2011.

(SEAL)



GERI LYNN SANCHEZ
CLERK OF THE DISTRICT COURT

By: /s/ STEPHANIE CHAVEZ
DEPUTY

NOTE: This summons does not require you to see, telephone or write to the District Judge of the Court at the time. It does require you or your attorney to file your legal defense to this case in writing with the Clerk of the District Court within 30 days after the summons is legally served on you. If you do not do this, the party suing may get a Judgment by default against you.

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FILED IN MY OFFICE
DISTRICT COURT CLERK
9/21/2011 9:58:02 AM
GERI LYNN SANCHEZ

THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF VALENCIA
STATE OF NEW MEXICO

NO. D-1314-CV-2011-01191

PEGGY YOUNGER,

Plaintiff,

vs.

BNSF RAILWAY COMPANY,

Defendant.

COMPLAINT FOR PERSONAL INJURY

COMES NOW the Plaintiff, Peggy Younger, by and through her attorney, Richard R. Marquez and for her complaint against the Defendant states the following:

COUNT I

NEGLIGENCE

1. Plaintiff, Peggy Younger, is and at all times relevant hereto, a resident of the County of Valencia in the State of New Mexico.

2. Upon information and belief, the Defendant, BNSF Railway Company, is a foreign corporation. At all times relevant and material to this complaint, Defendant was doing business in the State of New Mexico at the time this cause of action arose.

3. This cause of action arises from a train and motor vehicle collision which occurred when a train struck Plaintiff, Peggy Younger, at or near the intersection of Estevan Lopez Road and State Road #116, in the County of Valencia, State of New Mexico on or about March 9, 2009.

4. Plaintiff was injured in the March 9, 2009 collision.

5. The intersection where the train struck Plaintiff failed to have adequate safety measures or warning devices to adequately

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warn Plaintiff of an incoming train. The intersection where the train struck Plaintiff was both dangerous and extra hazardous. Defendant owed a duty of reasonable care to Plaintiff.

6. Defendant breached the duty owed to Plaintiff because Defendant knew or, by the exercise of reasonable care, should of known that:

a. The lack of adequate safety measures or adequate warning devices created both dangerous and extra hazardous conditions;

b. The dangerous and extra hazardous conditions created an unreasonable risk of harm to the public and the Plaintiff;

c. Plaintiff would not discover or realize the danger or would fail to protect herself against it.

7. Defendant thereby failed to exercise reasonable care to protect Plaintiff against a reasonably foreseeable danger.

8. The accident occurred as a direct and proximate result of the negligence of Defendant.

9. As a direct and proximate result of the negligence of Defendant and/or it's employees for which Defendant is vicariously liable, the Plaintiff sustained injuries, which include, but are not limited to, past and future pain and suffering, past and future medical bills, lost wages and the loss of the enjoyment of life.

WHEREFORE, the Plaintiff respectfully requests that the Court award Plaintiff a reasonable amount of damages to compensate the Plaintiff for his losses, for interest including prejudgment interest, for costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT II**RES IPSA LOQUITUR**

10. The allegations contained in paragraphs 1 through 9 are hereby incorporated by reference.

11. The injuries and damage to the Plaintiff were proximately caused by the actions and omissions of Defendant prior to and during the collision on or about March 9, 2009, which were under Defendant's exclusive control and management.

12. The injuries and damage to the Plaintiff were of a kind, which do not ordinarily occur in the absence of negligence on the part of the persons in control of the instrumentalities causing such injury and damage.

WHEREFORE, the Plaintiff respectfully requests that the Court award Plaintiff a reasonable amount of damages to compensate the Plaintiff for her losses, for interest including prejudgment interest, for costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT III**PUNITIVE DAMAGES**

13. The allegations contain in paragraphs 1 through 12 are hereby incorporated by reference.

14. By the conduct alleged in the above counts, Defendant and/or it's employees engaged in malicious and reckless conduct and showed an utter indifference to and conscious disregard for the Plaintiff's health and well-being. This failure amounts willful and wanton conduct and justifies the imposition of punitive damages

WHEREFORE, Plaintiff requests that punitive damages be awarded to Plaintiff in an amount reasonably necessary to punish and deter similar conduct and for such other and further relief as the Court deems just and proper.

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Respectfully submitted,

/s/ Richard R. Marquez

RICHARD R. MARQUEZ

Attorney for Plaintiff

503 Slate Ave. NW

Albuquerque, NM 87102

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